

♦Paid Family Leave FACT SHEET #1 TEN QUICK FACTS

1. Beginning July 1, 2004, the Paid Family Leave (PFL) Law provides workers with a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.
2. Workers who already pay into the existing State Disability Insurance (SDI) Program are eligible for PFL benefits.
3. The PFL program is 100% employee-funded.
4. PFL benefits will replace approximately 55% of wages up to a maximum of \$917 per week in 2008. The maximum benefit will increase automatically each year, commensurate with increases in the state's average weekly wage.
5. There is a seven-day waiting period before workers can receive PFL benefits.
6. Employers may require a worker to use a maximum of two weeks of vacation time before receiving PFL benefits. One week of this vacation time will be used to cover the seven-day waiting period.
7. Employees who work for businesses with 50 or more employees may also be covered by the Family and Medical Leave Act and the California Family Rights Act, which provides a maximum of 12 weeks of unpaid, job-protected leave.
8. New mothers who are eligible for pregnancy-related SDI will also be eligible for an additional six weeks of PFL benefits to bond with a new baby.
9. Workers may receive PFL benefits during leave that is taken all at one time or on an intermittent basis in hourly, daily or weekly increments.
10. California is the first state in the country to create a comprehensive Paid Family Leave benefits program.



Questions?

Asian Law Caucus 415-896-1701

California Women's Law Center 323-951-1041

Equal Rights Advocates 800-839-4372

The Legal Aid Society—Employment Law Center 800-880-8047

Outside California 415-593-0033

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♦ Paid Family Leave FACT SHEET #2 ELIGIBILITY AND BENEFITS

Workers who participate in the State Disability Insurance (SDI) Program are entitled to a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.

1. Who is eligible for Paid Family Leave benefits?

Full and part-time employees who pay into the SDI program can receive Paid Family Leave (PFL) benefits, regardless of the size of their employer.

2. Does an employee have to work a minimum number of hours or days before becoming eligible for Paid Family Leave benefits?

No. Eligibility for PFL benefits is determined by your earnings in the base period, not on the number of days or months worked. Wages earned approximately 5 to 17 months prior to the beginning of your PFL insurance claim are included in your base period.

3. Is an employee eligible if he or she is not a U.S. citizen?

You are eligible to receive PFL benefits if you pay into the SDI program. You do not have to be a U.S. citizen.

4. Is there a waiting period for Paid Family Leave benefits?

Both SDI and PFL require a seven-day, non-payable waiting period.

5. If I am caring for the same person within the same 12-month period, but there is a break in my care, is another seven-day waiting period required?

No.

6. Is the seven-day waiting period for Paid Family Leave seven consecutive days?

No. The required seven-day waiting period does not need to be taken seven days in a row. For example, if one day of care were provided per week, the seven-day waiting period would be satisfied over a seven-week period. Benefits are payable once the seven days have been satisfied and all other eligibility criteria are met.

7. Do I need to take all of my Paid Family Leave at one time?

No. The law does not establish a minimum number of hours, days or weeks that an employee must take leave in order to receive PFL benefits. It only establishes the maximum benefit time of six weeks within a 12-month period.

8. Am I required by law to use my vacation leave before receiving Paid Family Leave benefits?

An employer may require an employee to take two weeks of earned, but unused vacation leave. Vacation leave may include paid time off. One week of the vacation leave will be used to satisfy the seven-day waiting period. However, employers are not relieved of any collective bargaining duties they may have with respect to vacation leave.

9. If I have not accumulated two weeks of vacation leave, can my employer require that I use my earned, but unused sick leave?

No. The PFL law does not authorize employers to require the use of sick leave in lieu of vacation.

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10. How are Paid Family Leave benefits affected when an employee receives paid sick leave and Paid Family Leave benefits at the same time?

Consistent with the SDI program, paid sick leave is treated as wages. PFL benefits may be reduced by the amount of paid sick leave taken since the employee may not receive more than 100 percent of his or her full wages when PFL benefits and paid sick leave are combined. However, if an employer integrates the paid sick leave (in other words, pays sick leave in an amount which is the difference between the PFL benefit and the full wage), the paid sick leave taken by the employee will not affect the PFL benefit.

11. How is my weekly benefit amount for Paid Family Leave determined?

Your weekly benefit amount is based on the calendar quarter with the highest earnings in your base period. The base period covers 12 months and is divided into four consecutive quarters of three months each. The wages you were paid approximately 5 to 17 months before your claim begins are included in the base period. You must have at least \$300 in wages in the base period, and they must be subject to the SDI tax. Your base period does not include wages paid at the time your claim begins.

If you received SDI pregnancy disability benefits and then file a claim for PFL benefits to bond with your new child, your weekly benefit amount will be the same as your SDI weekly benefit amount. This is true even if your bonding claim does not immediately follow your SDI pregnancy claim.

12. Will my Paid Family Leave benefits equal my full pay? If not, how much will I receive?

Your weekly benefit amount will be approximately 55 percent of your earnings up to the maximum weekly benefit amount. The maximum benefit will increase automatically each year, commensurate with increases in the state's average weekly wage.

For PFL insurance claims beginning January 1, 2005 through December 31, 2005, weekly benefits will range from \$50 to \$840. To qualify for the minimum benefits of \$50 per week, an individual must have earned at least \$75 in the calendar quarter. To qualify for the maximum benefit amount of \$840 per week, an individual must earn at least \$19,830.92 in a calendar quarter during the base period.

13. How long can I receive Paid Family Leave benefits?

You may collect up to six weeks of PFL benefits during a 12-month period.

14. May a person collect other benefits while collecting Paid Family Leave benefits?

A worker may not receive PFL benefits if he or she is also eligible for or already receiving State Disability Insurance, Unemployment Insurance, or Workers' Compensation benefits.



Questions?

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The Legal Aid Society—Employment Law Center 800-880-8047

Outside California 415-593-0033

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**✦ Paid Family Leave
FACT SHEET #3
WELCOMING A NEW BABY OR CHILD**

Workers who participate in the State Disability Insurance (SDI) Program are entitled to a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.

Birth of a Child

1. Can I receive Paid Family Leave benefits after taking Pregnancy Disability Leave (PDL)?

Yes, even if you received SDI payments during your pregnancy disability leave, you can receive PFL benefits while you are bonding with your new child. In addition, the seven-day waiting period required for SDI when taking PDL counts towards the seven-day waiting period for PFL. You are not required to wait an extra seven days before receiving PFL benefits.

2. Do I have to apply for Paid Family Leave benefits immediately after my baby is born, or can I receive benefits when I take leave later?

You can receive PFL benefits when you take leave any time within one year of your child's birth.

3. Can my spouse/registered domestic partner and I both receive PFL benefits to bond with our new baby?

Yes, both parents can receive PFL benefits when taking leave to bond with a new child.

4. My registered domestic partner is having a baby. Can I receive PFL benefits when I take time to bond with the baby if she is still at home on Pregnancy Disability Leave?

Yes, you can receive PFL benefits when you take leave to bond with your new child any time within the first year of the child's birth, regardless of whether your partner is on leave.

5. If I take leave when my baby is born, can my spouse/registered domestic partner take leave and receive PFL benefits at a later date?

Yes, both parents do not have to take leave or apply for PFL benefits to bond with a new child at the same time. In fact, many parents choose to take leave and apply for benefits during different periods, so that at least one of them is home to bond with the new child.

6. Must I take all six weeks to bond with my baby at the same time?

No, you do not have to take all six weeks of leave at the same time. In addition, once you have served the seven-day waiting period, you do not have to serve a second seven-day waiting period, if you are taking leave for the same reason.

7. Do I have to submit any documentation other than the claim form to receive benefits while I bond with my newborn baby?

Yes. You must provide a photocopy of a birth certificate or a letter from the hospital indicating the baby's name, gender, date of birth, name of mother, name of father, if known, or registered domestic partner.

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8. If I receive six weeks of Paid Family Leave benefits to bond with my newborn baby and then one of my parents becomes seriously ill later in the year, will I be able to receive another six weeks of Paid Family Leave benefits?

No. You are limited to six weeks of benefits within a 12-month period, regardless of the reason for the leave.

9. Is my employer required to continue my health benefits while I am on Paid Family Leave?

The PFL law does not require your employer to provide health benefits while you are receiving PFL benefits. However, other laws, such as the Family and Medical Leave Act, the California Family Rights Act, and the Pregnancy Disability Leave law may require your employer to continue your health benefits while you are on leave. Consult with an attorney or legal advocate to learn more about your rights.

10. My employer says he cannot hold my job for me if I take Paid Family Leave. What can I do?

Your job may be protected pursuant to the Family and Medical Leave Act and the California Family Rights Act, which are federal and state leave laws. These and other laws also protect workers from discrimination and retaliation for exercising their rights. Consult with an attorney or legal advocate to learn more about your rights under these laws. You can also contact one of the organizations listed at the end of this fact sheet.

Adoption of a Child / Foster Child Placement

11. I am adopting a child. Does Paid Family Leave start when the adopted child enters the home? What if I adopt from outside the country and must travel to get the child?

As defined by the regulations, “bonding” means to develop a psychological and emotional attachment between a child and his or her primary care giver(s). This involves being in one another’s physical presence. Thus, you will be eligible for PFL benefits for time away from work while in the physical presence of your newly adopted child or newly placed foster child.

12. Can my spouse/registered domestic partner and I both apply for Paid Family Leave benefits to bond with our newly adopted or foster child?

Yes, both parents can receive PFL benefits to bond with a newly adopted or foster child.

13. Can I take leave now, while my spouse/registered domestic partner takes leave at a later date?

Yes, both parents do not have to take leave or apply for benefits to bond with a new child at the same time. In fact, many parents choose to take leave and apply for benefits during different periods, so that at least one of them is home to bond with the new child.

14. I am adopting a child. Do I have to take the six weeks of bonding leave immediately?

No, you can receive PFL benefits when you take leave any time up until the first anniversary of when the child entered the home.

15. I have a new foster child who is 13. Can I still take Paid Family Leave to bond with my child?

You can receive PFL benefits when taking leave to bond with a newly adopted or foster child up to the age of 18.

16. Do I have to submit any documentation other than the claim form to receive benefits while I bond with my newly adopted or foster child?

Yes. You must provide documentation of the adoption or foster care indicating the child's name, date of birth, gender, date of placement, name of parents, custodial parent(s) and/or registered domestic partner.

17. I am not a U.S. citizen. Can I still apply for Paid Family Leave?

You are eligible to receive PFL benefits if you pay into the SDI program. You do not have to be a U.S. citizen.

18. Is my employer required to continue my health benefits while I am on Paid Family Leave?

The PFL law does not require your employer to provide health benefits while you are on PFL. However, other laws, such as the Family and Medical Leave Act, the California Family Rights Act, and the Pregnancy Disability Leave Law may require your employer to continue your health benefits while you are on leave. Consult with an attorney or legal advocate to learn more about your rights.

19. My employer says he cannot hold my job for me if I take Paid Family Leave. What can I do?

Your job may be protected pursuant to the Family and Medical Leave Act and the California Family Rights Act, which are federal and state leave laws. These and other laws also protect workers from discrimination and retaliation for exercising their rights. Consult with an attorney or legal advocate to learn more about your rights under these laws. You can also contact one of the following organizations:

Questions?
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**♦ Paid Family Leave
FACT SHEET #4
CARING FOR YOUR DOMESTIC PARTNER**

Workers who participate in the State Disability Insurance (SDI) Program are entitled to a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child or to care for a seriously ill parent, child, spouse or registered domestic partner.

1. How does the Employment Development Department (EDD) define a “domestic partnership”?

For Paid Family Leave (PFL) purposes, a domestic partnership is defined as two adults who have chosen to share one another’s lives in an intimate and committed relationship of mutual caring. You and your partner may qualify as domestic partners if:

- You share a common residence;
- You agree to be jointly responsible for each other’s basic living expenses incurred during the domestic partnership;
- You are both members of the same sex; and
- You register with the Secretary of State by filing a Declaration of Domestic Partnership.

Additional requirements of domestic partnerships may be found in California Family Code Section 297.

2. Can I receive Paid Family Leave benefits to care for my seriously ill domestic partner?

Yes, under the PFL law, you are eligible for PFL benefits to care for your registered domestic partner.

3. Can I receive Paid Family Leave benefits to bond with our new baby?

Yes. Both you and your partner, if eligible, can receive benefits while taking leave to bond with a newborn baby or a newly adopted or foster child. If your registered domestic partner has given birth or adopted a child, you are entitled to receive PFL benefits even if you have not yet adopted the child yourself. Similarly, if a foster child is placed with your registered domestic partner, you are entitled to receive PFL benefits when you take leave to bond with the foster child.

4. Can I apply for Paid Family Leave benefits to care for my partner’s seriously ill mother?

No. You can only receive PFL benefits when you take leave to care for your own parents, child, spouse, or registered domestic partner. This is true for domestic partners as well as spouses.

5. I am not a U.S. citizen. Can I still apply for Paid Family Leave?

You are eligible to receive PFL benefits if you pay into the SDI program. You do not have to be a U.S. citizen.

More information on reverse side

6. My employer says he cannot hold my job for me if I take Paid Family Leave. What can I do?

Your job may be protected pursuant to the Family and Medical Leave Act and the California Family Rights Act, which are federal and state leave laws. These and other laws also protect workers from discrimination and retaliation for exercising their rights. Consult with an attorney or legal advocate to learn more about your rights under these laws. You may also contact one of the following organizations:

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FACT SHEET #5
CARING FOR A FAMILY MEMBER**

Workers who participate in the State Disability Insurance Program (SDI) are entitled to a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.

1. How does the Paid Family Leave Law (PFL) define “seriously ill”?

The PFL provides benefits to an individual to provide care for a parent, child, spouse or registered domestic partner with a serious health condition. A serious health condition is an illness, injury, impairment or physical or mental condition that involves either:

- An overnight stay in a hospital, hospice or residential care facility; or
- Continuing treatment by a health care physician or practitioner.

2. What is the definition of “continuing treatment”?

The serious health condition requiring “continuing treatment” must involve at least one of the following:

- a condition causing incapacity for more than three consecutive calendar days that requires:
 - two or more visits to a health care provider, or
 - one visit, accompanied by a regimen of continuing treatment and supervision;
- incapacity caused by pregnancy and/or prenatal care;
- a condition causing incapacity that continues over an extended period of time and requires periodic visits to a health care provider, and which may cause occasional or periodic, rather than continuous, incapacity;
- a permanent or long-term period of incapacity due to a condition for which treatment may not be effective (such as terminal cancer) where the patient is under the supervision of, but not necessarily being actively treated by, a health care provider;
- absences to receive multiple treatments for
 - restorative surgery, or
 - a condition which would likely cause a period of incapacity of more than three consecutive calendar days if not treated.

“Treatment” includes examinations to determine if a serious health condition exists and the evaluation of that condition.

3. Can I receive Paid Family Leave benefits while I take time off from work to care for my toddler when he gets an ear infection?

Treatments for routine conditions, such as the flu or ear infections, and cosmetic treatments or surgery, do not generally qualify as serious health conditions.

4. My mother is being treated for severe depression and alcoholism by a social worker and a psychologist. Are they considered “health practitioners”? Can I receive Paid Family Leave benefits to help her recovery?

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Yes. The term “health care provider” includes licensed medical doctors, clinical psychologists, clinical social workers, optometrists, dentists, podiatrists, licensed nurse practitioners and nurse-midwives and chiropractors (depending on the treatment provided). You are entitled to PFL benefits to care for your mother if her physician provides medical certification of your mother’s serious health condition and certifies that her condition warrants your care.

5. Do I need to provide a medical certificate to take Paid Family Leave to care for my seriously ill father?

When applying for PFL benefits to care for a seriously ill family member, you are required to file a medical certificate with the Employment Development Department (EDD) which establishes that your family member has a serious health condition that warrants your care. This diagnosis is not provided to your employer. The certificate must identify the serious medical condition involved, including the following:

1. The date, if known, on which the condition commenced;
2. The probable duration of the condition;
3. An estimate of the amount of time that the physician or practitioner believes the employee is needed to care for the child, parent, spouse, or registered domestic partner; and
4. A statement that the serious health condition warrants your participation in caring for your family member.

6. I need to take care of my mother with dementia, who requires ongoing care. Can I take leave a few hours at a time? Do I have to satisfy the seven-day waiting period each time I take leave?

The law does not establish a minimum number of hours, days or weeks that an employee can take off work to receive PFL benefits. For example, caregivers can receive PFL benefits when they take leave once a week to care for a family member with a serious health condition, or take two weeks of leave, return to work, and take four weeks of leave later. This is known as “intermittent leave.”

During intermittent leave, only the days on which you actually provide care for your family member will count toward the seven-day waiting period, which does need not to be consecutive. For example, if you care for your mother every Friday, you would serve the seven-day waiting period over seven weeks. Once you have satisfied the seven-day waiting period, you will receive PFL benefits for any subsequent days you miss work to care for your mother.

Caregivers only need to satisfy the seven-day waiting period once in a twelve-month period, unless they wish to establish a claim to provide care for a *different* care recipient.

7. My father lives outside California. Can I still get Paid Family Leave benefits to care for him?

You may be eligible to receive PFL benefits even if your father (or other family member needing care) does not live in California. As long as you can obtain a medical certificate from your father’s treating physician which establishes that your father has a serious health condition and that you are needed to provide physical care or psychological comfort to him, you will be eligible to receive PFL benefits. Keep in mind, however, that your father’s physician or health care provider must be licensed or certified in the state or country where your father is being treated for the medical certification to be considered valid by the EDD.

8. My father has cancer and needs care. My brother is unemployed and lives nearby, but he is unwilling to care for our father. My sister and I both work, but would like to care for our father. Can I

receive Paid Family Leave benefits while taking care of my father?

Yes, you can receive PFL benefits, because your brother, although available, is unwilling to care for your father. However, you and your sister can both receive PFL benefits *if* your father needs 16 hours or more of care per day. No more than one individual can claim benefits for one eight hour period. The EDD will certify up to three individuals who are “able and available” to provide care for the same care recipient, in a 24-hour period.

9. I only work part-time, but need to miss work to care for my mother, who was in an accident. Am I still entitled to Paid Family Leave benefits? How is the waiting period satisfied?

Both part-time and full-time workers are entitled to receive PFL benefits. If you earned at least \$300 that was subject to SDI tax over the past 12 months, provide the necessary documentation, and are needed to care for your mother, you are eligible to receive benefits. As a part-time worker, your waiting period will be satisfied after you have missed work to provide care for your mother for either seven partial or seven full days.

10. Can I receive Paid Family Leave benefits to care for my spouse’s mother, who is seriously ill?

No. The PFL program only provides benefits when you take leave to care for your own parents, child, spouse, or registered domestic partner.

11. I am not a U.S. citizen. Can I still apply for Paid Family Leave benefits?

You are eligible to receive PFL benefits if you pay into the SDI program. You do not have to be a U.S. citizen.

12. My employer says he cannot hold my job for me if I take Paid Family Leave. What can I do?

Your job may be protected pursuant to the Family and Medical Leave Act and the California Family Rights Act, which are federal and state leave laws. These and other laws also protect workers from discrimination and retaliation for exercising their rights. Consult with an attorney or legal advocate to learn more about your rights under these laws. You may also contact one of the following organizations:

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